penses to the wedding paid. Suit was then brought against him for an accounting, and the Court of Appeals in Wenninger *v.* Mitchell, 122 Southwestern Reporter, 1130, held that Mrs. Wenninger could recover her share of the partnership property, as the contract was an unconscionable one, such as no one in her senses and not under a delusion would make, and as no honest and fair-minded person would accept. To uphold such contracts would make marriage a matter of traffic, and would stimulate marriage procurement in such degree as to be demoralizing in its tendency and unhappy in its results. Although plaintiff is in pari delicto, and may profit by the relief asked, the public good requires that it be granted.

Cruel and Unusual Punishment.—In the case of State *v.* Ross, 104 Pacific Reporter, 596, it appeared that defendant was convicted of larceny of some $288,000 from funds of the state, and a fine in double that amount assessed in addition to a five-year term in the penitentiary. Defendant was to stand committed till the fine should be paid; thus making a total imprisonment of more than 790 years in case he had to work it all out at the $2 per day allowed. Interest seems to have not been imposed, but it is worthy of note that, if it had been, accused would not only have been condemned to languish in the county jail through all eternity, but would have needed the daily allowance of a dozen fellow prisoners to keep from plunging further toward hopeless insolvency for all time to come. Fortunately, however, the Oregon Supreme Court held the punishment "cruel and unusual," notwithstanding it was within the maximum provided by statute.

Release of Surety by Usury in Principal Contract.—The Georgia Court of Appeals, in Hancock *v.* Bank of Tifton, 65 Southeastern Reporter, 784, holds that usury in a note makes invalid a waiver of homestead therein, and thus increases the risk of a surety, so as to operate as a discharge of his liability when he signs without notice of the infirmity. The decision follows that of the Georgia Supreme Court in the earlier case of Prather *v.* Smith, 28 Southeastern Reporter, 857. See note to Com. *v.* Richardson, ante, p. 684.

Lying and Perjury Distinguished.—A man may not always be committing a crime even when he thinks he is doing so. After the first witness in a criminal prosecution in Texas had given his testimony, accused, who was on bail, left the courtroom and one Emery was thereafter called as a witness and testified or supposed he testified. He at least said things which a jury of his peers declared false, and he was sentenced to be punished for perjury; but the Texas Court of Criminal Appeals in Emery *v.* State, 123 Southwestern Reporter, 133, reversed the conviction on the ground that, by absence of accused in the former prosecution, the court lost jurisdiction, and perjury could